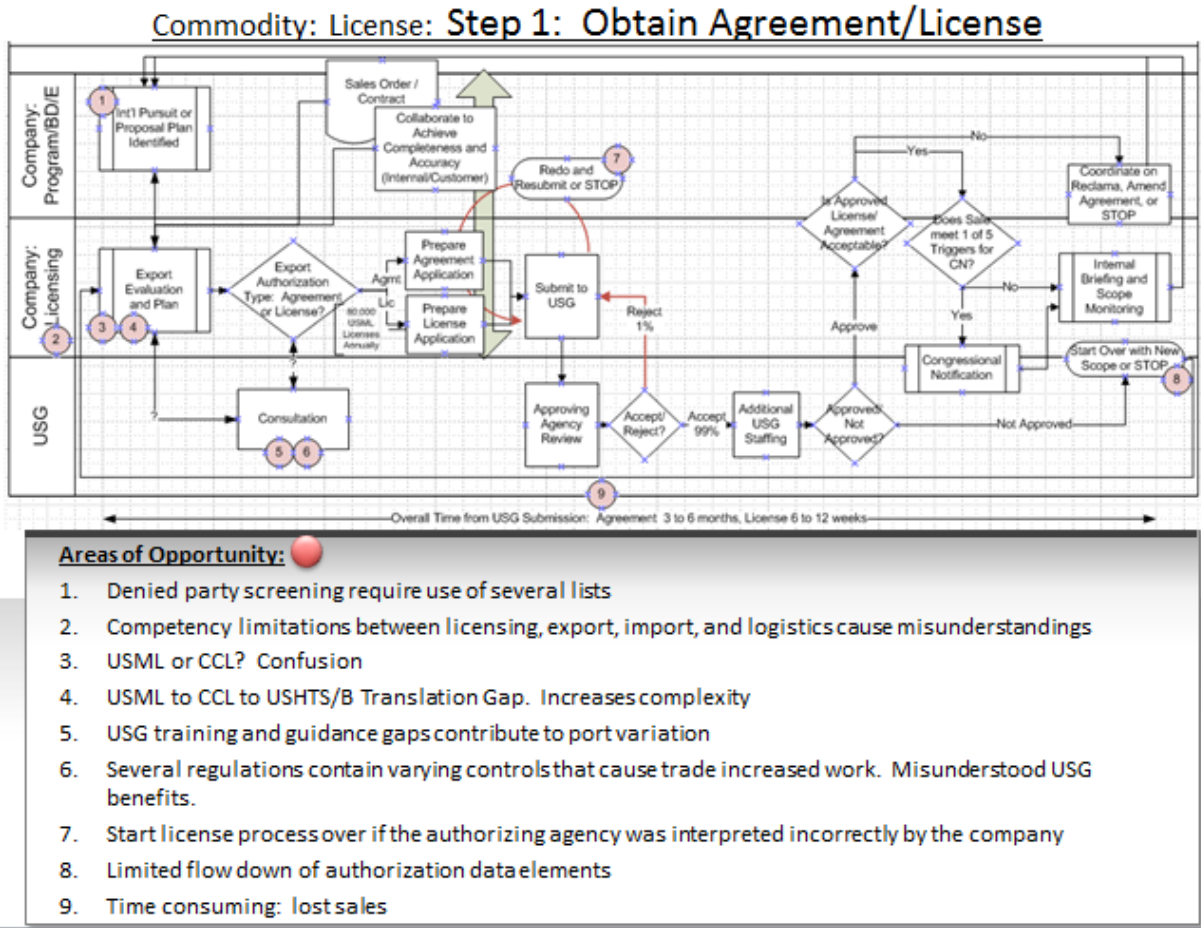


# COAC EMWG: Commodity: Licensed

## Area of Opportunity for Licensed Commodities: Narrative

### STEP 1: OBTAIN AGREEMENT OR LICENSE



#### 1) Denied Party Screening require use of several lists

a) DESCRIPTION – Prior to engaging in business and throughout the trading lifecycle, companies are required to screen/rescreen partners against various lists. The count of lists are exorbitant, the frequency of electronic updates from a subscription service is variable, agency responsibilities regarding hit resolution are not clear, and agency guidance on shipment holds is not clear.

#### b) PROPOSED SOLUTIONS

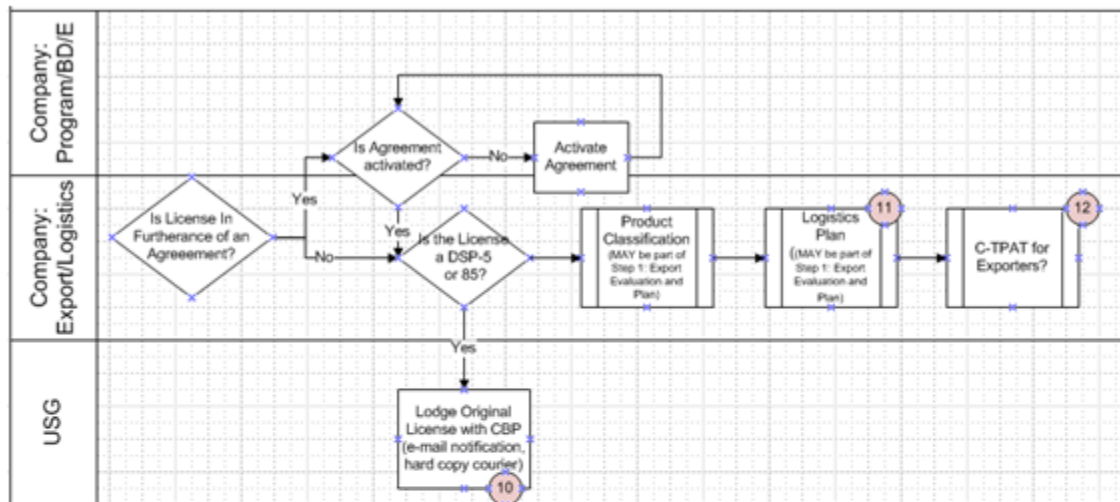
- i) Create ONE Government Screening list the trade can use to screen for a number of different reasons. Provide clear expectations to the trade on screening cadence that coincides with list updates.
- ii) Create ONE Government entity as a single point of contact to resolve hits. This entity should be accountable to a timeline, decisive in guidance on shipments regarding hold/proceed, and when a hold exists transparent regarding hold type and hold reason.

- 2) Competency Limitations between Licensing, Export, Import, and Logistics Cause Misunderstandings
- a) DESCRIPTION – The practitioners of International Trade within a company can be divided into four distinct competency areas: Licensing, Import, Export, and Logistics. These competency areas are typically responsible to disseminate regulations throughout their company, drive adherence, and perform risk analysis. The limited horizontal integration of these vertical competencies is the source of many misunderstandings. These misunderstandings typically result in shipment delays, increased risk, and unnecessary exposure for a company. This company matter is comparable to and intensified by the same occurrence on the government side. With several agencies involved in international trade across our government, there is little horizontal integration. With lacking horizontal integration both across trade competencies and across government agencies, we only compound the misunderstandings problem. In some ways, this occurrence impedes true root cause analysis. We additionally believe this root cause to be the significant source of delays in international supply chains, especially when adding the world trading complexities. The solutions below only pertain to the aspect of company trade competencies, since government solutions are a part of the One U.S. Government at the Border COAC Sub-Committee.
- b) PRIORITIZED SOLUTIONS – Promote education or certification programs that synthesize the competencies of Licensing, Import, Export, and Logistics.
- 3) USML/CCL? Confusion
- a) DESCRIPTION - Companies that manufacture USML and/or CCL items, especially smaller companies that lack specific export compliance staff, often find themselves confused regarding the classification of their item(s). This leads to companies filing costly and time consuming Commodity Jurisdiction (CJs) with the Department of State and/or Department of Commerce. At times a company would even receive separate decisions from State and Commerce designating the same item for the USML control and CCL control –leading to further confusion and delay.
- b) PRIORITIZED SOLUTIONS - The current Export Control Reform initiative created a “decision tree” for companies to follow to determine if their product is USML or CCL classified. The “decision tree” provides companies a series of questions to better guide their intra-company decision on appropriate classification. While we agree that continued outreach and education by the Administration would be beneficial as companies adjust to the new regulations.
- 4) USML to CCL to USHTS/B Translation Gap. Increases complexity.
- a) DESCRIPTION – Related to area of opportunity number 4 and 2, this area of opportunity specifically addresses the need to harmonize the USML, CCL, and USHTS/B to achieve regulatory transparency. The area of opportunity specifically relates to the level and lengthy timeline of training that is required to achieve a savvy trade professional. In today’s environment, the time, training, and exposure required to achieve a professional with precise and accurate knowledge is extensive.
- b) PRIORITIZED SOLUTIONS – While we recognize that Export Control Reform efforts are the priority of the focus agencies, we do wish to assert a secondary matter to consider. If the regulation itself cannot be harmonized to achieve one coding level, we look to our USG to provide harmonized advice and guidance related to the known and potential mappings across the USML, CCL, and USHTS/B. The method proposed for delivery is an informed compliance publication that is published by commodity. Updates would be released as sources are updated.

- 5) USG Training and Guidance Gaps contribute to port variation
- a) DESCRIPTION – Related to area of opportunity 2, this matter specifically relates to the training and guidance gaps that exist across our USG. Many examples relate to the roles and responsibilities of the licensing agencies and Customs and Border Protection. For example, CBP systems may not align with a licensing agencies control requirements because the task is performed manually at the port. To the extent the port variation exists, that variation may reveal itself in delays. While CBP has setup an Exodus group to address the matter of consistency, they are sometimes a cause of delay. (examples of gaps: (1) exemption and exceptions: some CBP ports require documents even though the entry is released paperless via ABI (2) guidance requested regarding a situation where a license expired the same day the AES was filed, and the scheduled flight was bumped a day later: CBP and licensing agencies were not aligned, leaving the company to stop the shipment until a new license was obtained. Issues have arisen where DDTC and CBP don't share a similar policy view. Recent examples: If a license expired today, the AES was filed yesterday, and the freight was booked to fly today; then what are the repercussions if the freight was bumped and departs tomorrow? DDTC indicated that if CBP allows the freight to move, then the shipment is compliant and no voluntary disclosure is required. CBP indicated that a new license is required. Additionally, Miami stops freight when Carrier is not listed on license.
  - b) PRIORITIZED SOLUTIONS – CBP, BIS, Census, and DOS should consider a cross-agency rebaselining of currently established operating procedures, including guidance. This is particularly important with export control reform, foreign trade regulation updates, and changes to the current complexities of trading companies. Additionally, consideration should be given to obtaining COAC's feedback on the rebaseline work product prior to implementation.
- 6) Over Control causes maximum trade work. USG benefits misunderstood.
- a) DESCRIPTION - Applying USML controls on every insignificant nut/bolt/tire/hose creates delays in the export process and potentially impacts the readiness of our partners and allies. If we have already approved the fighter plane for an international sale, why do we need to scrutinize the parts and components to keep that aircraft functioning? In fact it is in U.S. national security interests to ensure the military equipment of our partners and allies is functioning properly.
  - b) PRIORITIZED SOLUTIONS - The Export Controls Reform initiative will transition a number of items from the more restrictive USML to the more flexible CCL. When less sensitive items transition to the CCL they will be eligible for Strategic Trade Authorization (STA) for certain countries. The STA will allow fast-track exports to selected countries and companies, thereby addressing the export delays for less sensitive parts and components. We recommend an institutionalized and visible process to present and review items that the trade deems eligible for de-regulation on an ongoing basis. We additionally propose that these decisions be a matter of public record.
- 7) Start License Process over if the authorizing agency was interpreted incorrectly by the company
- a) DESCRIPTION – Related to item number 3, there is limited availability of exporter tools (via government flow down) to ensure the company properly identifies the authorizing agency. If we decide the authorizing agency incorrectly, we must start the licensing process over again.
  - b) PRIORITIZED SOLUTIONS
    - i) Implement an inter-agency referral process, including visibility of referral status to the trade.
    - ii) If the agencies cannot be harmonized to achieve one licensing department, we look to our USG to provide harmonized advice and guidance to the trade. The method proposed for delivery is an informed compliance publication that is published by commodity.

- 8) Limited Flow Down of Authorization Data Elements
- a) DESCRIPTION – The data elements associated with Licensing to Customs appears to be limited. Providing the parties, for example, may assist with supply chain security reviews.
  - b) PRIORITIZED SOLUTIONS
    - i) CBP/trade should review all data elements associated with a license to ensure incorporation into their modern processes. The goal is to reduce CBP requirements for those exporters that obtained authorization.
    - ii) CBP to work within the World Customs Organization to synthesize global requirements for licensed material. Specifically, review the advanced data processes as a mechanism to eliminate International Import Certificates.
    - iii) DDTTC, BATFE, and CBP to engage in a strategic dialogue on the future state of automation to promote the reuse of data. Eliminate International Import Certificate (IIC) by requiring carriers of license controlled freight to provide proof of delivery to the end user
- 9) Time Consuming: Lost Sales
- a) DESCRIPTION - The historical delay of the U.S. export controls system has caused our partner and allies, as well as foreign companies that acquire U.S. parts/components, to reevaluate their decision to purchase or integrate U.S. equipment. This has resulted in lost international sales and has in some cases resulted in a loss of skilled labor in the U.S.
  - b) PRIORITIZED SOLUTIONS –
    - i) The Export Control Reform efforts should go a long way to address this above concern. Administration and industry need to maintain an open dialogue as defense trade and the international market evolves.
    - ii) Aid in reducing complexity by ONE USG harmonizing advice and guidance to the trade via an informed compliance publication that is published by commodity. Harmonizing the approach across the global community.

## STEP 2: PRE-SHIPMENT DECLARATION PREPARATION



### Trouble Spots:

10. ITAR Lodging of DSP-5
11. Identifying Transport Entities and Routings at the time of License Submission
12. Customs- Trade Partnership Against Terrorism for Exporters

### 10) Lodging of DSP-5's

- a) **DESCRIPTION** - ITAR regulations require the license holder to provide an original permanent export license (DSP-5) to Customs. Since the license is issued in DTRADE electronically, the exporter must print, courier, log receipt, log port, and maintain records to prove lodging. Obtaining the required proof is cumbersome, manual, and port-by-port.
- b) **PRIORITIZED SOLUTIONS** –
  - i) Automate transmission of License data from DTRADE to CBP via single window. Ensure alignment with licensing agencies to ensure removal/clarification of their regulation/policy. (Note: this action applies to commerce licenses and other license types as well).
  - ii) Allow license to be “lodged” using an automatic “copy” to CBP directly from DTRADE to CBP.

11) Identifying Transport Entities and Routings at the time of License Submission

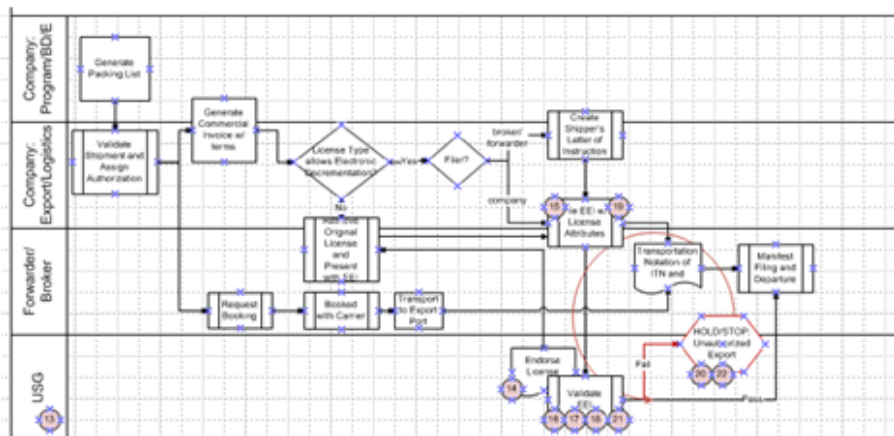
- a) DESCRIPTION – The license submission requires identification of the freight forwarder that will be used to carry freight. Additionally, until guidance is posted otherwise, the freight forwarder needs to ensure there is adequate space that meets our timeline on a DIRECT flight. Since both of these are performed at the time of license submission, and the license submission frequently initiates years before shipment, the problem arises when companies change freight forwarders or when carriers change capacity and routes (See also area of opportunity #2). Today, updates are required to be made to the license prior to execution of the movement.
- b) PRIORITIZED SOLUTIONS –
  - i) Remove freight forwarder information from the license submission, and allow CBP to manage shipment and provider compliance using either the CTPAT for exporters program (provider screening) or advanced data (licensed freight must be filed prior to departure).
  - ii) CBP to review the licensing process to determine what CBP processes could be eliminated from the entry/exit lifecycle. For example, CBP could invoke advanced targeting from the license data and CTPAT information; thereafter, the ACAST submission could serve as the EEI declaration.
  - iii) Licensing agencies to post guidance that allows shipments to route through authorized foreign airports to arrive at a destination.

12) Customs-Trade Partnership Against Terrorism (C-TPAT) for Exporters

- a) DESCRIPTION – While this matter is the focus of another COAC subcommittee, C-TPAT for Exporters bears mention within the EMWG. There are two elements to consider 1) ITAR industry controls 2) lacking criteria 3) lacking trade case. First, since most ITAR controlled commodities are situated within an industry role of Department of Defense government contractor, CBP should recognize that a government contractor's operating practices and particularly other government agencies' oversight of controls overlap with existing CTPAT importer criteria. This overlap subjects a government contractor to additional checking and validations. Second, Exporters are unsure of the program requirements or best practices. Historic analysis by COAC revealed that the criteria for imports simply cannot be redeployed for exports. Second, in order to increase participation, clear benefits must be provided. One proposed benefit was that of mutual recognition whereby foreign importations would have priorities. CBP should query the trade to understand the percent of companies this would and would not directly benefit. For example, identify the percentage of US outbound freight that is sold on an incoterm where US entity responsibilities terminate prior to foreign inbound clearance.
- b) PRIORITIZED SOLUTIONS –
  - i) Review government contracting security requirements, paying special attention to other government agency control monitoring and validations, with the goal of streamlining existing C-TPAT criteria for government contractors (Department of Defense).
  - ii) Develop CTPAT for exporters criteria with exporters and export service providers.
  - iii) In order to increase CTPAT for Exporters participation, study US entity benefits as they directly relate to mutual recognition prior to finalizing the CTPAT for exporters criteria.

### STEP 3: EXPORT DECLARATION FILING (INCLUDING LICENSE ENDORSEMENT)

#### Commodity: License: Step 3: Export Declaration Filing



#### Trouble Spots:

13. USG Guidance Flow Up; USG Interpretation Flow Down
14. ITAR Manual Endorsement Process for Temporary Licenses
15. Export/Import Manual Matchup (Import decl. of customer returns)
16. Exception and Exemption (e.g. body armor) Management and CBP Declaration Requirements
17. Defense Trade Cooperation Treaties
18. Incorrect ECCN/License
19. New FTR Regulations: License value
20. Exodus Team and Transparency
21. Routed transactions
22. Variable Port Practices (ex non-technical errors and FTR penalties)

#### 13) USG Guidance Flow up; USG Interpretation Flow Down

- a) DESCRIPTION – See Area of opportunity #5 for information on USG Flow down of regulatory interpretations specifically; however, the entire cycle of issue identified to issue sustainably resolved bears mention.
- b) PROPOSED SOLUTION – ONE USG for Exports Governance Board – The agencies should consider creation of a single body to address export matters that both arise on a given shipment at a given port or arise as a result of new risks identified and new regulations implemented. The ONE USG for Exports Governance Board would have the primary responsibility of issuing guidance and implementation instructions to the ports of entry.



14) ITAR Manual Endorsement Process for Temporary Import/Export Licenses

a) DESCRIPTION - The current (manual) process in place for temporary export and import licenses (DSP-73s and DSP-61s, DSP-85) is inefficient and costly for both U.S. companies and the U.S. Government. Under existing procedures, because the original license must be presented for each outbound and inbound shipment, an exporter must convert the electronic license to a paper original “transaction” copy, courier the document to the port of export/import, contract with a freight forwarder to present the document to port officials for “decrementing” (hand notation) the exported quantity and value, ensure that the document is secured to be available for return, at which time it must be presented again for “incrementation” (hand notation) and returned to the company. This process is often inconsistent, due to the fact that Customs at each port may decrement licenses differently, which can lead to errors that result in voluntary disclosures. Moreover, when multiple entries and exits under a single DSP-73 need to occur simultaneously, companies must either seek an additional license to accommodate the shipment or postpone delivery thereby disrupting the supply chain. Shipments made to and from Canada / Mexico via truck under these authorizations is also challenging for the reasons stated above, and some companies elect to ship airfreight as a result. Finally, the process for correction is port-by-port (if at all). The risk related to movement of the license between ports of import and export also leads to a risk of the license being lost or misplaced requiring the shipper to apply for replacement license resulting in additional expense and untold delays in transit to already approved transactions.

b) PRIORITIZED SOLUTIONS

1. Automate License Endorsements via single window for both imports and exports of all license types, where filer provides DDTC quantity and that DDTC quantity is deemed endorsed. Ensure alignment with licensing agencies to ensure removal/clarification of regulation/policy. Ensure availability of trade reporting against historic shipments (export/import). Address parameters/requirements for post-correction.
2. Hub license endorsements at a port of IOR/USPPIs selection while allowing freight to move in/out of transportation port (RLF-for import/export option). The concept of hubbing already exists for DSP-5 licenses, where the license is lodged in a single port though the goods can move out of any other port.

15) Export to Import: Manual Matching (declaration of repair and returns)

a) DESCRIPTION – License and License Exemptions are used heavily in the case of repair and returns. The cross-referencing is captured in data fields; however, edit checks do not exist nor is there a mechanism to select historic shipments from a menu and match to current export shipments. Additionally, in a case where a customer returns items to the US for our repair, and our customer disregards our shipping instructions in lieu of their own courier and the courier does not follow broker turnover instructions, exemptions may not be cited properly, causing a voluntary disclosure correction process to manage.

b) PROPOSED SOLUTION –

- i) AES system should recognize exports that are required to match to an import and provide exporters with a list to select from and associate. Edit checks should be incorporated to ensure data accuracy.
- ii) In addition to the solutions provided for Area of opportunity #3, we additionally advocate for CBP to institute a policy to require ITAR goods on formal entries and to publish a mechanism for correction with the couriers.



16) Exception and Exemption Management (e.g. admin practices, body armor, etc) and CBP Export Declaration Requirements

a) Exemption Wording on CBP Import Documents

i) DESCRIPTION - ITAR regulations require the ITAR exemption wording to be printed on the CBP import documents. This information is not transmitted via ABI, and is only referenced in a print field of a typical broker's process. If the wording is not present at the time of import, when the item is then exported, a new license must be obtained (4 week turnaround). CBP allows corrections ad-hoc (port-by-port).

ii) PRIORITIZED SOLUTIONS –

- (1) As part of the NEI, exemptions will be more prevalent. We recommend CBP/DDTC review all (proposed/current/planned) exemptions and arrive at recommendations/parameters that would allow a compliant company to self-manage. Additional discussions should take place around the relevance of the regulatory requirement for managing exemptions against import time frames (4 years), especially since permanent imports are regulated by BATFE.
- (2) Automate License Exemptions via single window for both imports and exports. Ensure alignment with licensing agencies to ensure removal/clarification of regulation/policy. Ensure availability of trade reporting against historic shipments (export/import). Address parameters/requirements for post-correction.

b) License Decrementation when QTY is Lots (add commerce Example)

i) DESCRIPTION - DDTC allows exporters to group like-described items into one license line item. These grouped items typically receive a QTY of LOTS, and it is understood that 1 lot = 1 shipment. When many parts containing many different AES lines reference the single license line; the quantity decremented cannot be less than 1 (AES will not allow); therefore, the DSP-5 is decremented incorrectly.

(1) PRIORITIZED SOLUTIONS –

- (a) Address parameters/requirements for post-correction.
- (b) When a license quantity is lots, CBP/DDTC shall agree to only decrement by value. In the case of the use of lots as a unit of measure, no quantity shall be decremented.
- (c) CBP/DDTC to agree that 1 lot = 1 QTY of an AES line. In this case, the exporter would request a quantity in lots equal to the count of parts that will be shipped.

c) Export Declaration of Body Armor for contractors transported via Military Aircraft

i) DESCRIPTION - While an ITAR exemption is referenced on the export declaration (ITAR 123.17 exemptions (f), (g), (h), and/or (i)), the process for declaration is made more complex when military aircraft is the mode of transport for the individual. Particularly, the availability of up-to-date flight information is typically dependent upon our communication with our traveler.

ii) PRIORITIZED SOLUTIONS -

- (1) Allowing separate filings of the commodity data and transportation data, as currently proposed in AES, is helpful if the USG will be responsible to transmit the transportation data. Further, the option to notify the traveler with the status of a complete executed export and the ITN number.
- (2) Clarify CBP's role for items traveling under ITAR exemptions in 123.17. Depending on CBP's role on both export and import, a more integrated solution could be derived.

17) Defense Trade Cooperation Treaties

- a) DESCRIPTION – The DDTC ITAR exemption number must be followed by the ACM number for AES submission. Therefore, a user must report the DDTC license type of SAU for the Australian ITAR Exemption and SGB for the UK ITAR Exemption. This would then have to be followed by the (Approved Community Member) ACM # with the UK and 9 digits or for Australia DDT and 8 numbers. While there are other guidance and enforcement questions the industry is pursuing, the development in AES is quite complex and edit checks are unknown.
- b) PRIORITIZED SOLUTION – Consider providing ONE USG guidance on Defense Trade Cooperation Treaties usage, expected controls, and operating guidelines.

18) Incorrect ECCN/License

- a) DESCRIPTION - Over the past few years, AES has incorporated ECCN validations such as: ECCN is valid; and, license exception/exemption code used is valid; etc. There could be errors made in entering the ECCN, License Exception or the License Number, which may result in incorrect ECCN and/or license information that may not be valid for the country concerned.
- b) PROPOSED SOLUTION –
  - i) Expanded EEI data point checks, including—
    - (1) Confirm whether the ECCN/destination country requires a license;
    - (2) Require ECCNs for all Commodity Lines (currently, if License Type Code indicates NLR-C33, no ECCN is required; however, the filer may have incorrectly selected NLR for a commodity that actually requires a license);
    - (3) If there is no license exception/license number noted for a given ECCN that actually requires a license/exception, reject the EEI with an error code;
    - (4) Provide some co-relation between the HS and the ECCN (Example: HS 0710.80.9750 for frozen vegetables – the ECCN on the EEI is 1C010 without any errors);
    - (5) License quantity/value decrements and rejection based on the depleted quantity (even if there is some functionality in the edits but needs to be expanded);
    - (6) Exporters' ability to run reports on existing licenses and quantities.

19) New FTR Regulations regarding ITAR Line Value

- a) DESCRIPTION - Policy guidance regarding the line value. Due to exchange issues or scope issues etc., there could be value deviations more than 10% in some cases. Would there be an edit check against the Value compared to the license? If not, can the edits be expanded to accommodate this?
- b) PRIORITIZED SOLUTIONS - Please provide guidance on the ITAR license line value when currency fluctuations exist. Additionally, provide edit check information

20) Exodus Team and Transparency

- a) DESCRIPTION - We had several situations where CBP referred a matter to the Exodus team. We understand from CBP that the primary way CBP is directed to communicate with Exodus points of contact is via fax. Due to fax server failures, Exodus never received CBPs notifications and there was no other way for CBP to reach their designated Exodus contacts. CBP continued to fax notifications to Exodus, but never received any responses. Communications with BIS also yielded no results, as it had received no information from Exodus on the issues. The detained goods remained in limbo (i.e., not released, not formally seized) for several months/
- b) PRIORITIZED SOLUTIONS –
  - i) Greater transparency of the issue within the agencies;
  - ii) Use of electronic communications;
  - iii) More detailed notification to the exporter/importer;
  - iv) Provide a phone/contact for the Exodus team.

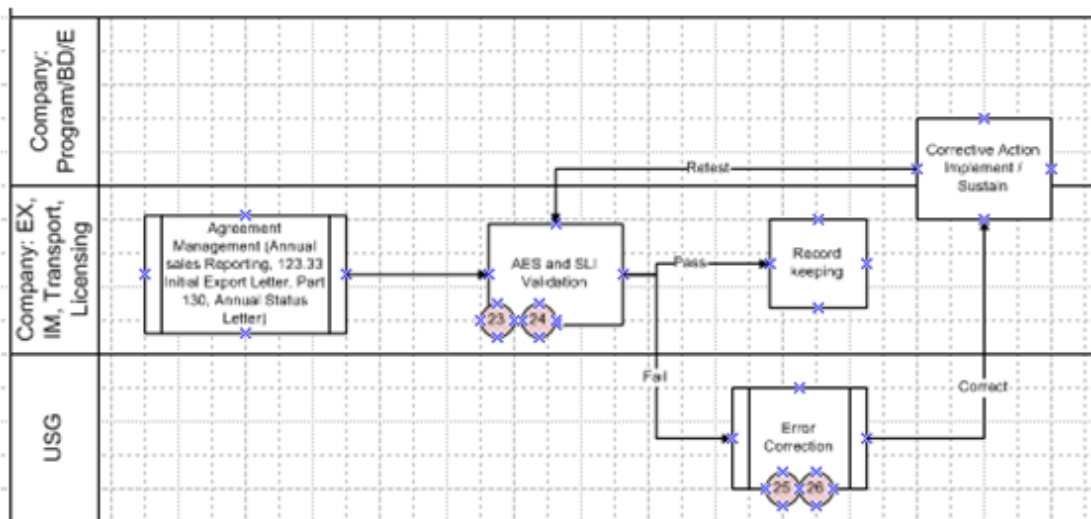
21) Routed Transactions

- a) DESCRIPTION - US sellers provide the required shipment information to the FPPI's forwarders, but have no visibility into what is actually filed in AES. They may request AES data from Census on these shipments; however, Census will only provide limited data set to USPPI which is not useful for USPPI's internal audit purposes. In addition, is frequently very difficult for the USPPI to obtain the full EEI data set from the FPPI's forwarders—more often than not, the forwarders do not understand their obligations under the FTR and will refuse to provide the requested EEI data to the USPPIs. Obtaining this information from the FPPI directly often proves just as difficult. Currently, the AES data for routed transactions provided to USPPI's by Census provides only: state; FTZ; exporter name; address; EIN; description; quantity; value; and, ECCN.
- b) POTENTIAL SOLUTIONS –
  - i) Expanded data set relating to the line such as License number and license exception along with the forwarder information; or,
  - ii) A regulatory change to require the authorized forwarder and/or FPPI to provide the complete EEI data to the USPPI (without the USPPI having to make the request, as is currently the case).

22) Inconsistent Port Practices

- a) DESCRIPTION - There is an overall lack of consistency in various ports relating to the import/export clearance of shipments, particularly ITAR shipments (Example: one port requires the original DSP-5 to be lodged, while others will accept copies). Given the nature of our business, hand carried licensed material occurs. Ensuring licensing compliance on hand carries is very difficult since there are differing hand carry processes and varying levels of training on licenses. In addition, we have observed an overall lack of knowledge and/or understanding of the export regulations (particularly the ITAR) by CBP personnel.
- b) PRIORITIZED SOLUTIONS –
  - i) Detailed policy guidelines to be provided to CBP on inspection, review and handling of ITAR shipments;
  - ii) Expanded training (particularly ITAR) for CBP; and,
  - iii) Better inter-agency cooperation.

## STEP 4: POST-SHIPMENT EXPORT CONTROLS



### Trouble Spots:

- 23. Cumbersome Military Duty Free Post-Entry Evidence Process
- 24. Lack of a Trade Facing Govt Portal Containing Export Data
- 25. Non-Technical Errors and FTR Penalties
- 26. Understood, Agreeable, and Automated Post Entry Process

### 23) Cumbersome Military Duty Free Post-Entry Evidence Process

- a) DESCRIPTION - Prior to an importer claiming military duty free treatment, the duty free contract clause must be found on the contract lodged with the DCMA. The DCMA contracts are stored electronically and are web-searchable. Despite this, our post entry requires an importer to request a duty free certificate from the DCMA, and upon our receipt, we provide a copy to CBP. Additionally, some ports require that an ABI paperless-release be overridden to require a documents required signoff – we believe this port practice was established to allow for better port tracking of those entries “pending” the duty free certificate. Finally, prior to the expiration of our 180 day time limit to provide such evidence, we found CBP in certain ports are issuing CF28s. We understand that this is for CBP port tracking purposes.
- b) PRIORITIZED SOLUTION –
  - i) Insert an edit check on Military Duty Free at the time of import by advocating with DCMA to provide information via single window. Require no additional evidence. Update regulations to reflect. As information, CBP issued a recent CSMS message on this item, which indicated that CBP is moving to a risk-based approach for MDF filings. We do still encourage the electronic linking via ITDS to automate our own process for securing evidence.
  - ii) Streamline document imaging system (DIS) process to require less key-in data from the importer/filer. Promote DIS option to MDF users.

24) Lack of a Trade Facing Govt Portal Containing Export Data

- a) DESCRIPTION – In order to drive compliance in an organization, government records must be used as the control record. This can be used to ensure complete records, accuracy of systems, and service provider controls, etc. At this time, there is no centralized portal for accessing export data for the exporters. Current process is to either rely on the forwarders to provide the information or request data from the Census through a FOIA request.
- b) PRIORITIZED SOLUTIONS –
  - i) Upcoming ACE/AES changes might provide for the data in a centralized repository.
  - ii) This should include all of the filings by the exporters including licenses, CJ, CCATS, GCs etc.
  - iii) There should also be a mechanism to correct any errors through this portal in the post-shipment process.

25) Non-Technical Errors and FTR Penalties

- a) DESCRIPTION - CBP enforces the FTR and imposes maximum civil penalties for even the most technical of errors (Example: incorrect port of exit – due to traffic, trucks being diverted to Fort Lauderdale vs. Miami. During the course of a day, there may be over 20 filings containing the same incorrect port of exit code—forwarder failed to change the port code and did not otherwise voluntarily disclose the error to Census as they failed to recognize the errors. This translated into a six figure penalty for a simple error in a shipment that contained EAR99 items and was authorized under NLR. Had the forwarder discovered the technical errors and submitted a VSD to Census, Census would have likely chosen to issue a warning letter in lieu of penalties).
- b) PRIORITIZED SOLUTIONS –
  - i) Despite CBP's published penalty and mitigation guidelines, commence dialogue between CBP and Census to discuss how Census wishes for such cases to be handled. Informal discussions we have had with Census officials revealed that Census is not entirely in agreement with CBP's approach.
  - ii) Revise CBP penalty guidelines to provide for warning letters to be issued to AES filers for the first and second violations. Thereafter, any further violations would be subjected to imposition of penalties.

26) Understood, Agreeable, and Automated Post Entry Process

- a) DESCRIPTION – The situation where several regulations are involved in controlling exports, several post entry processes exist. Further, no one post entry process points to other impacted agencies. As a result, companies take their own approach to processing corrections. Further clarification required on ONE USG mitigating factors and simplification required on the multi-agency streamlined VSD/VD/PSC filings. Additionally, guidance should be provided to direct exporters on the agency process for post entry correction.
- b) PRIORITIZED SOLUTION –
  - i) Develop a combined USG approach to risk mitigation on US exports of goods.
  - ii) Develop combined USG trade tools for the use of timely correction and closure transparency. If the post shipment correction process is within the reach of the exporter through a portal, more companies will correct clerical errors and non-NS errors. With a centralized government export portal with exporters having accessibility of their information, internal controls can be better executed, which could result in VSD/VD filings.

27) Employee Traveler of Hand Carried licensed goods cause compliance concern due to port and traveler variation

- a) DESCRIPTION – Hand carriage of licensed material requires the traveler, in most ports, presentation of licenses to CBP at the port of exit. Given the variation of the traveler, the CBP officer, and the port practice, the risk of non-compliance with licensing regulations cause companies to limit/restrict hand carries. In some cases, this limits business meetings, even

though authorizations may cover such activity. Of concern is that this policy may limit our ability to sell product.

b) PRIORITIZED SOLUTION –

- i) Electronically link AES (and 7501) filings to Traveler information. Electronically endorse the license based on transmitted data elements. Such information shall display for the CBP officer at the port of exit, in case a physical inspection is necessary.
- ii) CBP to set a policy regarding the hand carriage of licensed material. We recommend allowing the pre-presentation of the license for advance endorsement. Additionally, offering a refresher training would be helpful.